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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

DOCKETED

MAR 18 2014

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DOCKETED BY

In the matter of:

DOCKET NO. S-20867A-12-0459

TRI-CORE COMPANIES, LLC, an Arizona  
limited liability company,

SECURITIES DIVISIONS' MOTION TO  
COMPEL COMPLIANCE

TRI-CORE MEXICO LAND  
DEVELOPMENT, LLC, an Arizona limited  
liability company,

TRI-CORE BUSINESS DEVELOPMENT,  
LLC, an Arizona limited liability company,

ERC COMPACTORS, LLC, an Arizona  
limited liability company,

ERC INVESTMENTS, LLC, an Arizona  
limited liability company,

C&D CONSTRUCTION SERVICES, INC.,  
a Nevada corporation;

PANGAEA INVESTMENT GROUP, LLC,  
an Arizona limited liability company, d/b/a  
Arizona Investment Center,

JASON TODD MOGLER, an Arizona  
resident,

BRIAN N. BUCKLEY and CHERYL  
BARRETT BUCKLEY, husband and wife,

CASIMER POLANCHEK, an Arizona  
resident,

NICOLE KORDOSKY, an Arizona resident,

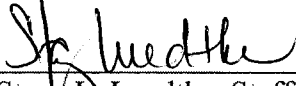
Respondents.

ORIGINAL

1 The Securities Division of the Arizona Corporation Commission ("the Division") requests  
2 that the ALJ direct Respondents Jason Mogler, Tri-Core Companies, LLC, and Tri-Core Business  
3 Development, LLC ("Respondents") to submit to the Division an amended list of witnesses and  
4 exhibits as directed by Judge Stern on February 20, 2014.

5 This motion is supported by the following Memorandum of Points and Authorities.

6  
7 RESPECTFULLY SUBMITTED this 18th day of March, 2014.

8   
9 Stacy L. Luedtke, Staff Attorney for the Securities Division

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 In August 2014, Respondents, then represented by counsel, Bobby Thrasher, submitted  
12 their list of witnesses and exhibits to the Division. Respondents listed 50 witnesses and tens of  
13 thousands of pages of exhibits.

14 During the hearing on February 20, 2014, Mr. Mogler represented to the Court that  
15 Respondents have six witnesses he intends to present at hearing in early May. Mr. Mogler  
16 indicated he intends to call "investors", "an appraiser", "an accountant" and "Ernie Penner . . . a  
17 Mexican law attorney". See February 20, 2014 Hearing Transcript, pp. 710-711. Due to the fact  
18 that the original list of witnesses and exhibits provided by Respondents in August 2014 was so  
19 voluminous, Judge Stern ordered Mr. Mogler to submit a revised list of witnesses and exhibits  
20 with only those witnesses that would be called and exhibits that would be used. Respondents were  
21 directed to do so within two weeks, which would have been on or before March 6, 2014. *Id.* at pp.  
22 711-712. Mr. Mogler agreed to do so. *Id.* No revised list of witnesses and exhibits has been  
23 provided to the Division.

24 On March 7, 2014, undersigned counsel corresponded with Mr. Mogler reminding him of  
25 his obligation, both individually and behalf of Tri-Core Companies, LLC, and Tri-Core Business  
26 Development, LLC, to submit the revised list, and that the same was overdue. A copy of that

1 correspondence is attached as Exhibit A. Undersigned counsel provided Mr. Mogler some  
2 additional time, until March 17, 2014, to comply with the Court's directive. Again, no revised list  
3 of witnesses and exhibits has been produced to the Division.

4 The Division requests this Court direct Mr. Mogler to immediately provide the Division  
5 with the revised list of witnesses and exhibits. Not only is Respondents' original list of witnesses  
6 and exhibits voluminous, but the Division is entitled to know if Respondents are calling any expert  
7 witnesses. Notwithstanding the fact that Respondents' original list of witnesses did not identify  
8 any expert witnesses, undersigned counsel found out at 5:00 PM on October 18, 2013, the Friday  
9 before the first day of hearing was to start, that a witness Respondents identified as "Peter S.  
10 Davis" was possibly acting as an expert witness for Respondents. Respondents did not disclose his  
11 expert report until October 18<sup>th</sup>, and the Division was only able to find out about his expert status  
12 by contacting Mr. Davis directly and subpoenaing his expert file. The Division is concerned that,  
13 based on Mr. Mogler's statement on February 20<sup>th</sup> regarding an intention to call "an appraiser",  
14 "an accountant" and "Ernie Penner . . . a Mexican law attorney", these individuals are additional  
15 expert witnesses that have never been designated as such by Respondents. The Division is unable  
16 to make such a determination without the amended list that Respondents were ordered to provide.

17 It is important for Respondents to update their list of witnesses and exhibits, including  
18 identifying any experts, immediately so that the Division can adequately prepare. The Division  
19 does not want to again learn at the eleventh hour that Respondents have expert witnesses that have  
20 never been identified, and for with Respondents have never produced their expert file. As such,  
21 the Division requests this Court immediately order Respondents to submit to the parties and the  
22 Court an updated list of witnesses and exhibits, including identifying any expert witnesses.

23 RESPECTFULLY SUBMITTED this 18th day of March, 2014.

24   
25 Stacy L. Luedtke, Staff Attorney for the Securities  
26 Division

1 ORIGINAL and 9 copies of the foregoing  
2 filed this 18th day of March, 2014 with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 W. Washington St.  
6 Phoenix, AZ 85007

7 COPY of the foregoing hand-delivered  
8 this 18th day of March, 2014, to:

9 The Honorable Marc E. Stern  
10 Administrative Law Judge  
11 Arizona Corporation Commission  
12 1200 W. Washington St.  
13 Phoenix, AZ 85007

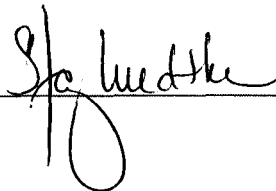
14 COPY of the foregoing mailed  
15 this 18th day of March, 2014, to:

16 Irma Huerta  
17 C&D Construction Services, Inc.  
18 130 W. Owens Ave.  
19 Las Vegas, Nevada 89030

20 Jason Mogler  
21 Individually, and as Representative of Tri-Core Companies, Tri-Core Business Dev.  
22 8800 East Chaparral, Suite 270  
23 Scottsdale, Arizona 85250

24 Jason Mogler  
25 Individually, and as Representative of Tri-Core Companies, Tri-Core Business Dev.  
26 7014 N. 15<sup>th</sup> St  
Phoenix, Arizona 85020

Guy Quinn  
1129 Stonegate Ct.  
Bartlett, IL 60103



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# EXHIBIT A

**COMMISSIONERS**  
GARY PIERCE, Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR



MATTHEW J. NEUBERT  
DIRECTOR

SECURITIES DIVISION  
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E-MAIL: securitiesdiv@azcc.gov

**ARIZONA CORPORATION COMMISSION**

Direct line: 602-364-0790  
E-mail: sluedtke@azcc.gov

March 7, 2014

Jason Mogler  
7014 N. 15<sup>th</sup> St  
Phoenix, Arizona 85020


Re: ACC v. Mogler et al, S-20867A-12-0459

Mr. Mogler:

I am writing to remind you of your obligation, both individually and on behalf of the Tri-Core entities you have appeared for, to provide me with an amended list of witnesses for the May hearing. Judge Stern directed you to disclose a list of the *actual* witnesses you are calling in May, as opposed to the 50 witnesses Mr. Thasher designated in August 2013. The due date for such a disclosure was March 6, 2014, and I received nothing from you. If I do not receive the updated witness list by March 17, 2014, I will seek enforcement assistance from Judge Stern. Further, you indicated at the February hearing that you are going to call an attorney and an appraiser. There are no experts designated on your August 2013 list of witnesses and exhibits. I had to find out on my own that Mr. Davis had been retained to act as an expert witness on the eve of the October hearing. To the extent you are calling any witnesses who will give expert testimony other than Mr. Davis, please provide all of their file materials related to their expert opinion no later than March 31, 2014. Further, I expect that if you intend to call an attorney representing you or your entities, there will be a waiver of the attorney-client privilege. If I do not receive this information, I will likely move to exclude any witness you call as an expert.

Finally, the address you provided Judge Stern at the hearing appears to be undeliverable, as well as the official addresses listed for the Tri-Core entities. As such, I am sending this to your home address. Please send a Notice of Change of Address to Docket Control at 1200 W. Washington, Phoenix, Arizona 85007 listing a valid address for both you and the two Tri-Core entities you represent.

Sincerely,

  
Stacy L. Luedtke  
Staff Attorney

Enclosure